

AMENDED IN ASSEMBLY MARCH 27, 2006

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

ASSEMBLY BILL

No. 2324

Introduced by Assembly Member Canciamilla

February 22, 2006

An act to repeal Chapter 214 of the Statutes of 1937, Chapter 1835 of the Statutes of 1961, and Chapter 1828 of the Statutes of 1963, relating to tidelands and submerged lands and to convey certain tidelands and submerged lands to the City of Pittsburg.

LEGISLATIVE COUNSEL'S DIGEST

AB 2324, as amended, Canciamilla. Tidelands and submerged lands: City of Pittsburg: conveyance.

Under existing law, various grants of tidelands and submerged lands have been made in trust to local agencies, including several legislative grants of specified lands to the City of Pittsburg.

This bill would repeal the existing legislative grants to the ~~city~~ City of Pittsburg, and would enact a new grant of tidelands and submerged lands, as described, subject to specified conditions, to the City of Pittsburg in trust for purposes of commerce, navigation, and fisheries, and for other public trust purposes, including, but not limited to, preservation of the lands in their natural state for scientific study, open space, wildlife habitat, and recreational and visitor-oriented uses.

The bill would provide that revenue from those lands, that are currently leased by the state and designated as specified state lease numbers, shall remain revenue of the state and be transmitted to the state by the trustee. The bill would also provide that, on and after January 1, 2007, the portion of that revenue representing an increase in revenue from these leases shall be retained by the trustee.

The bill would impose a state-mandated local program by requiring, among other things, that the city submit to the State Lands Commission for its approval a trust lands use plan, as prescribed. The bill would require the city to file each year with the commission a detailed statement of revenue from the administration of the lands and the expenditure thereof, and would prescribe related matters.

The bill would provide that its provisions are severable and if any provision of the bill or its application is held invalid, that invalidity shall not affect other provisions or application that can be given effect without the invalid provision or application.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. As used in this act, the following definitions
2 apply:
3 (a) "Commission" means the State Lands Commission.
4 (b) "Plan" means trust lands use plan as described in Section-3
5 4 of this act.
6 (c) "Public trust purposes" means purposes related to
7 commerce, navigation, and fisheries, and other public trust
8 purposes, including, but not limited to, preservation of the lands
9 in their natural state for scientific study, open space, wildlife
10 habitat, and recreational and visitor-oriented uses.
11 (d) "State" means the State of California.
12 (e) "Trustee" means the City of Pittsburg, a municipal
13 corporation of the State of California, in Contra Costa County.
14 (f) "Trust lands" means all tidelands and submerged lands,
15 whether filled or unfilled, situated within the boundaries of the
16 City of Pittsburg as ~~such~~ *those* boundaries exist on the effective
17 date of ~~this act, except for those lands that are currently leased by~~
18 ~~the state and designated as state lease numbers PRC 2757.1, PRC~~
19 ~~7643.1, PRC 7872.1, and Chapter Lease 18.1.~~ *this act.*

1 (g) "Trust revenues" means all revenues received from trust
2 lands and trust assets.

3 SEC. 2. (a) There is hereby granted in trust to the City of
4 Pittsburg all of the right, title, and interest of the state held by the
5 state by virtue of its sovereignty in and to all tidelands and
6 submerged lands, whether filled or unfilled, situated within the
7 boundaries of the City of Pittsburg as such boundaries exist on
8 the effective date of this act, ~~except for those lands that are~~
9 ~~currently leased by the state and designated as state lease~~
10 ~~numbers PRC 2757.1, PRC 7643.1, PRC 7872.1, and Chapter~~
11 ~~Lease 18.1..~~

12 (b) The trust lands shall be held by the trustee and its
13 successors in trust for the benefit of all the people of the state for
14 public trust purposes, as more particularly provided in this act.

15 (c) This trust grant is subject to the following express
16 conditions:

17 (1) The use of the trust lands shall be in conformity with the
18 public trust and the plan, and shall be without cost to the state.

19 (2) The trustee or its successors shall not at any time grant,
20 convey, give, or otherwise alienate the trust lands, or any part
21 thereof, to any person, firm, entity, or corporation for any
22 purposes whatsoever. The trustee may lease the trust lands, or
23 any part thereof, for limited periods, not exceeding 66 years, for
24 purposes consistent with the public trust and the plan. The trustee
25 may collect and retain rents and other trust revenues from those
26 leases, under rules and regulations adopted by the trustee.

27 (3) In the management, conduct, operation, and control of the
28 trust lands, or any improvement, betterments, or structures
29 thereon, the trustee or its successors shall make no illegal
30 discrimination in rates, tolls, or charges for any use or service in
31 connection herewith, nor shall the trustee discriminate against or
32 unlawfully segregate any person or group of persons on account
33 of sex, race, color, creed, national origin, ancestry, or physical
34 handicap for any use or service in connection herewith.

35 (4) The state shall have the right to use, without charge, any
36 transportation, landing, or storage improvements, betterments, or
37 structures constructed upon the trust lands for any vessel or other
38 watercraft or railroad owned or operated by or under contract to
39 the state.

(5) The state shall have the right, at any time in the future, to use the trust lands or any portion thereof for any authorized public use without compensation to the trustee, its successors or assigns, or any person, firm, or public or private corporation claiming under it, except that in the event improvements have been placed with legal authority upon the property taken by the state, compensation shall be made to the person entitled thereto for the value of the interest in the improvements taken or the damages to that interest.

(6) There is reserved to the people of the state the right to fish in the waters over the trust lands, with the right to convenient access to those waters over the trust lands for that purpose.

(7) There is excepted and reserved to the state all remains or artifacts of archaeological and historical significance and all deposit of minerals, including, but not limited to, all substances specified in Section 6407 of the Public Resources Code, in the trust lands, and the right to prospect for, mine, and remove those deposits from the lands.

(8) This grant is made subject to the rights of any and all persons under any title derived from the state or any of its agencies in or to any part of the trust lands.

(9) A survey of the trust lands pursuant to Public Resources Code Sections 6358 and 6359 shall not be required, provided that the grantee has otherwise established a metes and bounds description of the trustee's corporate water boundaries.

SEC. 3. Revenue from lands, that are currently leased by the state and designated as state lease numbers PRC 2757.1, PRC 7643.1, PRC 7872.1, and Chapter Lease 18.1, shall remain revenue of the state and be transmitted to the state by the trustee. On and after January 1, 2007, the portion of that revenue representing an increase in revenue from these leases shall be retained by the trustee.

~~SEC. 3.~~

SEC. 4. (a) On or before July 1, 2008, the trustee shall submit to the State Lands Commission a plan indicating details of intended development, preservation, or other use of the trust lands. The trustee shall thereafter submit to the commission for approval all changes of, amendments to, or extensions of the plan. Any use of the trust lands shall be consistent with the plan as approved by the commission.

(b) The commission shall review with reasonable promptness the plan submitted by the trustee and any changes of or amendments to the plan to determine that they are consistent with the public trust and the requirements of this act. Based upon its review, the commission shall either approve or disapprove the plan. If the commission disapproves the plan, the commission shall furnish the trustee with its formal recommendations, and the trustee shall submit a revised plan to the commission within 180 days. If that revised plan is determined by the commission to be inconsistent with the public trust and the requirements of this act, all right, title, and interest of the trustee in and to the trust lands and improvements thereon shall revert to the state.

(c) The plan shall include all of the following:

(1) A general description of the type of uses planned or proposed for the trust lands. The location of these land uses shall be shown on a map or aerial photograph.

(2) The projected statewide benefit to be derived from the planned or proposed uses of the trust lands, including, but not limited to, the financial benefit and the furtherance of those purposes set forth in subdivision (b) of Section 2 of this act.

(3) The proposed method of financing the planned or proposed uses of the trust lands, including estimated capital costs, annual operating costs, and anticipated annual trust revenues.

(4) An estimated timetable for implementation of the plan or any phase thereof.

(5) A description of how the trustee proposes to protect and preserve natural and manmade resources in connection with the use of the trust lands.

(d) All leases or agreements proposed, or entered into by any trustee after July 1, 2008, shall be consistent with the plan submitted by the trustee and approved by the commission.

(e) Upon request, the trustee shall submit to the commission a copy of all leases and agreements entered into, renewed, or renegotiated with respect to the trust lands.

~~SEC. 4.~~

SEC. 5. The trustee shall demonstrate good faith in carrying out the plan and amending it when necessary in accordance with subdivisions (a) and (b) of Section—3 4 of this act. If the commission determines that the trustee has substantially failed to improve, restore, preserve, or maintain the trust lands, as required

1 by the plan, in the time period set forth in paragraph (4) of
2 subdivision (c) of Section 3 4 of this act, or has unreasonably
3 delayed adopting that proposal, all right, title, and interest of the
4 trustee in and to the trust lands and improvements thereon shall
5 revert to the state.

6 ~~SEC. 5.~~

7 *SEC. 6.* (a) The trustee shall establish and maintain
8 accounting procedures, in accordance with generally accepted
9 accounting principles, providing accurate records of all revenues
10 received from the trust lands and trust assets and of all
11 expenditures of those revenues. If the trustee has several trust
12 grants of adjacent lands and operates the granted lands as a single
13 integrated entity, separation of accounting records for each trust
14 grant is not required. All trust revenues shall be expended only
15 for those uses and purposes set forth in subdivision (b) of Section
16 2 of this act. The purpose of this subdivision is to provide for the
17 segregation of funds derived from the use of the trust lands in
18 order to ensure that they are only expended to enhance the trust
19 lands in accordance with the trust uses and purposes upon which
20 the trust lands are held.

21 (b) Trust revenues may be used to acquire appropriate uplands
22 to benefit and enhance the trust with the prior written consent of
23 the commission. Property acquired with these trust revenues shall
24 be considered an asset of the trust and subject to the terms and
25 conditions of this act.

26 ~~SEC. 6.~~

27 *SEC. 7.* On or before October 1 of each year, the trustee shall
28 file with the commission a detailed statement of all trust revenues
29 and expenditures relating to its trust lands and trust assets,
30 including obligations incurred but not yet paid, covering the
31 fiscal year preceding submission of the statement. This statement
32 shall be prepared according to generally accepted accounting
33 principles and may take the form of an annual audit prepared by
34 or for the trustee.

35 ~~SEC. 7.~~

36 *SEC. 8.* (a) To expend trust revenues for any single capital
37 improvement on the trust lands involving an amount in excess of
38 two hundred fifty thousand dollars (\$250,000) in the aggregate,
39 the trustee shall file with the commission a detailed description

1 of the capital improvement not less than 90 days prior to the time
2 of any disbursement therefor or in connection therewith.

3 (b) Within 90 days after the time of that filing, the commission
4 shall determine whether the capital improvement is in the
5 statewide interest and benefit and is consistent with the
6 conditions of this act. The commission may request the opinion
7 of the Attorney General on the matter; and, if it does so, a copy
8 of that opinion shall be delivered to the trustee with the notice of
9 its determination.

10 (c) If the commission notifies the trustee that the capital
11 improvement is not authorized, the trustee shall not disburse any
12 trust revenues for, or in connection with, the capital
13 improvement, unless and until it is determined to be authorized
14 by a final order or judgment of a court of competent jurisdiction.
15 The trustee may bring suit against the state for the purpose of
16 securing an order or judgment, which suit shall have priority over
17 all other civil matters.

18 (d) Service shall be made upon the executive officer of the
19 commission and the Attorney General, and the Attorney General
20 shall defend the state in that suit. If judgment is given against the
21 state in the suit, no costs may be recovered.

22 ~~SEC. 8. (a) On June 30, 2007, and at the end of every third~~
23 ~~fiscal year thereafter, that portion of the trustee's trust revenues~~
24 ~~in excess of two hundred fifty thousand dollars (\$250,000)~~
25 ~~remaining after current and accrued operating costs and~~
26 ~~expenditures directly related to the operation or maintenance of~~
27 ~~trust activities shall be deemed excess revenues.~~

28 ~~(b)~~

29 *SEC. 9.* Any funds deposited in a reserve fund for future
30 capital expenditures or any funds used to retire bond issues for
31 the improvement or operation of the granted lands shall not be
32 deemed excess ~~revenue~~ *revenues*. To be deemed nonexcess
33 revenues, any reserve funds for future capital expenditure shall
34 be for projects that are consistent with the plan and have prior
35 commission approval under Section ~~7~~ 8 of this act. Capital
36 improvements of the trust lands made for purposes authorized by
37 this act may be considered as expenditures for the purpose of
38 determining excess revenues.

39 ~~(e) The excess revenues, as determined pursuant to this~~
40 ~~section, shall be allocated 85 percent to the State Treasurer for~~

1 deposit into the Kapioloff Land Bank Fund (Sec. 8610 of the
2 Public Resources Code) and 15 percent to the trustee for
3 expenditures consistent with this act.

4 ~~SEC. 9.~~

5 *SEC. 10.* The commission may, from time to time, institute a
6 formal inquiry to determine that the terms and conditions of this
7 act, and amendments thereto, have been complied with and that
8 all other applicable provisions of law concerning the trust lands
9 are being complied with in good faith.

10 ~~SEC. 10.~~

11 *SEC. 11.* Reimbursement for any and all expenditures of
12 nontrust revenues for management, maintenance, and
13 improvements made to the trust shall be approved by the
14 commission in advance of those expenditures, or the
15 expenditures shall be deemed a gift to the trust.

16 ~~SEC. 11.~~

17 *SEC. 12.* Whenever the commission finds that the trustee has
18 violated, or is about to violate, the terms of its trust grant or any
19 other principle of law relating to its obligation in connection with
20 the lands granted pursuant to this act, the commission shall notify
21 the trustee of the violations before the commission pursues other
22 legal remedies.

23 ~~SEC. 12.~~

24 *SEC. 13.* Chapter 214 of the Statutes of 1937 is repealed.

25 ~~SEC. 13.~~

26 *SEC. 14.* Chapter 1835 of the Statutes of 1961 is repealed.

27 ~~SEC. 14.~~

28 *SEC. 15.* Chapter 1828 of the Statutes of 1963 is repealed.

29 ~~SEC. 15.~~

30 *SEC. 16.* The provisions of this act are severable. If any
31 provision of this act or its application is held invalid, that
32 invalidity shall not affect other provisions or applications that can
33 be given effect without the invalid provision or application.

34 ~~SEC. 16.~~

35 *SEC. 17.* No reimbursement is required by this act pursuant to
36 Section 6 of Article XIII B of the California Constitution because
37 the only costs that may be incurred by a local agency or school
38 district are the result of a program for which legislative authority
39 was requested by that local agency or school district, within the

- 1 meaning of Section 17556 of the Government Code and Section
- 2 6 of Article XIII B of the California Constitution.

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